

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION

MICHAEL WIDMER #B-30985,)	
)	
Plaintiff,)	
)	
-vs-)	No. 13-23-MJR
)	
RANDALL L. BAYLER,)	
)	
Defendant.)	

DEFENDANT'S MOTION FOR LEAVE TO FILE A MOTION TO DISMISS

NOW COMES the Defendant, RANDALL L. BAYLER, by and through his attorney, Lisa Madigan, Attorney General of the State of Illinois, and hereby moves for leave to file a motion to dismiss Plaintiff's Complaint in this matter pursuant to Federal Rules of Civil Procedure Rule 12(b)(6). In support of this Motion, Defendant states as follows:

1. Plaintiff filed his initial complaint on January 8, 2013. [Doc. 2]. In his Complaint, Plaintiff made several allegations against a number of individuals arising out of his period of incarceration at Lawrence Correctional Center ("Lawrence"). The Court ordered that several of Plaintiff's unrelated claims be severed into separate cases. [Doc. 1].
2. Defendant's Answer is due on April 8, 2013. The Court's Local Rules require Defendant to file an answer to the Complaint and not a motion to dismiss.
3. The Court, in its original Merit Review Order on January 7, 2013, held that Plaintiff stated one valid claim against Defendant Bayler for interference with Plaintiff's

access to the courts. [Doc. 1 at pg. 4].

4. Plaintiff's claims relating to his criminal convictions are barred.

5. Also, accepting as true all of Plaintiff's allegations in his Complaint, Plaintiff has failed to state a valid claim relating to his custody case.

6. These issues are threshold questions that should be addressed before any judicial resources are expended in litigating this case.

7. Defendants ask for leave to file a motion to dismiss and to answer any surviving claims in the time provided by Federal Rule of Civil Procedure 12(a)(4).

8. Attached hereto is Defendant's Motion to Dismiss with Supporting Brief (Exhibit A).

WHEREFORE, for the above and foregoing reasons, Defendant respectfully requests this Honorable Court grant his Motion for Leave to File a Motion to Dismiss.

Respectfully submitted,

RANDALL L. BAYLER,

Defendant,

LISA MADIGAN, Attorney General,
State of Illinois,

Attorney for Defendant,

Adam G. Eisenstein #6305787
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 782-2077 Phone
(217) 524-5091 Fax
Email: aeisenstein@atg.state.il.us

Of Counsel.

By: /s\ Adam G. Eisenstein
Adam G. Eisenstein
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2013, I electronically filed Defendant's Motion for Leave to File Motion to Dismiss with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

None

and I hereby certify that on April 8, 2013, I mailed by United States Postal Service, the document to the following non-registered participant:

Michael Widmer #B-30985
Lawrence Correctional Center
10930 Lawrence Road
Sumner, IL 62466

Respectfully submitted,

By: \s\ Adam G. Eisenstein
Adam G. Eisenstein #6305787
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 782-2077 Telephone
(217) 524-5091 Fax
Email: aeisenstein@atg.state.il.us